

Article - Estates and Trusts

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§13–711.

(a) In this Part III of this subtitle the following words have the meanings indicated.

(b) “Best interest” means that the benefits to the disabled person resulting from a treatment outweigh the burdens to the disabled person resulting from that treatment, taking into account:

(1) The effect of the treatment on the physical, emotional, and cognitive functions of the disabled person;

(2) The degree of physical pain or discomfort caused to the disabled person by the treatment, or the withholding or withdrawal of the treatment;

(3) The degree to which the disabled person’s medical condition, the treatment, or the withholding or withdrawal of treatment results in a severe and continuing impairment of the dignity of the disabled person by subjecting the individual to a condition of extreme humiliation and dependency;

(4) The effect of the treatment on the life expectancy of the disabled person;

(5) The prognosis of the disabled person for recovery, with and without the treatment;

(6) The risks, side effects, and benefits of the treatment or the withholding or withdrawal of the treatment; and

(7) The religious beliefs and basic values of the disabled person receiving treatment, to the extent these may assist the decision maker in determining best interest.

(c) “Life-sustaining procedure” means any medical procedure, treatment, or intervention used to sustain, restore, supplement, or supplant a spontaneous vital function in order to prevent or postpone the death of a disabled person.

(d) “Substituted judgment” means a determination by a court that a disabled person would, if competent, make the same health care decision regarding a

life-sustaining procedure taking into account any information that may be relevant to the decision, including:

(1) The current diagnosis, prognosis with and without the life-sustaining procedure, and life expectancy of the disabled person;

(2) Any expressed preferences of the disabled person regarding the provision of, or the withholding or withdrawal of, the life-sustaining procedure at issue;

(3) Any expressed preferences of the disabled person about the provision of, or the withholding or withdrawal of, life-sustaining procedures generally;

(4) Any religious or moral beliefs or personal values of the disabled person in relation to the provision of, or the withholding or withdrawal of, life-sustaining procedures;

(5) Any behavioral or other manifestations of the attitude of the disabled person toward the provision of, or the withholding or withdrawal of, the life-sustaining procedure;

(6) Any consistent pattern of conduct by the disabled person regarding prior decisions about health care;

(7) Any reactions of the disabled person to the provision of, or the withholding or withdrawal of, a comparable life-sustaining procedure for another individual; and

(8) Any expressed concerns of the disabled person about the effect on the family or intimate friends of the disabled person if a life-sustaining procedure were provided, withheld, or withdrawn.

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